

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

POTENTIALS DEVELOPMENT, INC.,

Plaintiff,

v.

INTERNATIONAL ASSESSMENT  
NETWORK, and ZH COMPUTER, INC.,

Defendants.

CASE NO. C05-1888JLR

ORDER

This matter comes before the court on a motion to dismiss for lack of subject matter jurisdiction (Dkt. # 19) by Defendant International Assessment Network (“IAN”). For the reasons stated in this order, the court DENIES Defendant’s motion to dismiss.

Under a software license agreement (the “Agreement”) with Plaintiff Potentials Development, Inc. (“PDI”), Defendant IAN is obligated to pay PDI a “minimum royalty of \$4,000 per month” for an exclusive license to use PDI’s licensed software, up to a maximum aggregate of \$925,000. See Compl., Ex. 1 at ¶ 3(b) (Software License Agreement). PDI alleges that IAN has breached the Agreement by failing to make payments and now owes \$27,000 in back royalty payments. Compl. ¶ 4.1. PDI seeks judgment against IAN for \$27,000, for any royalties accruing before judgment. Compl. ¶ 5.1. Importantly, PDI seeks termination of the agreement because of IAN’s alleged

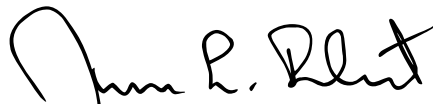
1 default. Id. Approximately \$427,110 in remaining royalty payments remain under the  
2 agreement, to be paid monthly as set forth in the agreement. See Pl.'s Reply at 3.

3 District courts have jurisdiction in civil actions where there is complete diversity  
4 of citizenship among the parties and the amount in controversy exceeds the sum or *value*  
5 of \$ 75,000, exclusive of interest and costs. See 28 U.S.C. § 1332(a). To justify  
6 dismissal, it must appear to a legal certainty that the claim is less than the jurisdictional  
7 amount. Crum v. Circus Circus Enterprises, 231 F.3d 1129, 1131 (9th Cir. 2000). IAN's  
8 argument that PDI's Complaint does not meet the jurisdictional amount in controversy  
9 because it only requests \$27,000 in back royalty payments is not well taken. PDI seeks to  
10 terminate the agreement with IAN; under that agreement IAN's remaining obligations  
11 indisputably exceed \$400,000.  
12

13 In considering the amount in controversy, the court must consider the value of the  
14 property at issue. See Meisel v. Allstate Indem. Co, 357 F. Supp. 2d 1222, 1225 (E.D.  
15 Cal. 2005). In this case, the amount in controversy exceeds the jurisdictional minimum  
16 and Defendant's motion to dismiss is therefore DENIED.

17 Dated this 11th day of August, 2006.

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JAMES L. ROBART  
United States District Judge